IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 305 of 1985
with

Civil Application No. 6494
in
First Appeal No 305 of 1985

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CITY RESTAURANT

Versus

AHMED SAIYED HUSEINMIYA AARAB

Appearance:

1. First Appeal No. 305 of 1985
MR PV NANAVATI for Petitioner No. 1
MR VIBHUTI NANAVATI for Petitioner No. 1
[MR AJ MEMON] for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 19/09/2003

ORAL JUDGEMENT

Heard learned advocate Mr. Nanavaty for the appellant original plaintiff. Learned advocate Mr. A.J. Memon who was appearing for the respondents original defendants no.2 and 3 has expired and, therefore, present respondent No. 1 - original defendant No. 2 Shri Ahmed Saiyad Husenmiya Aarab has personally remained present before this court. He was identified by Yusuf Gulam Rasul Patel, partner of the plaintiff firm who was identified by the learned advocate Mr. PV Nanavaty appearing for the appellant plaintiff.

Learned advocate Mr. Nanavaty submits that the matter has been settled between the parties out side the Court and the respondent no.1 in these proceedings has been considered as sub tenant by the plaintiffs. He also submits that the defendant has deposited an amount of Rs.3600.00 and Rs.2880.00 in favour of the plaintiff before the City Civil Court in Civil suit No. 2631 of 1977 which is lying before the city civil court. He further submits that as per the settlement between the parties out side the court, that amount deposited by the defendant is required to be withdrawn by the original plaintiff and, therefore, some observations and directions to that effect are necessary for enabling the plaintiff to make withdrawal of the said amount lying in the City Civil Court in the aforesaid civil suit no. 2631 of 1977 and he, therefore, prayed for some directions in that regard with a permission to withdraw the present appeal in view of the settlement between the parties out side the Court. On being asked, the original defendant as well as the partner of the plaintiff firm as aforesaid who are present before this Court have also stated the same thing.

Therefore, considering the statement made by the learned advocate Mr. Nanavaty before this court in presence of the above named defendant and partner of the plaintiff firm, leave to withdraw this appeal is granted. This appeal is disposed of as withdrawn. There shall be no order as to costs.

Registry of this court is directed to send the R & P to the concerned trial court immediately. City Civil Court, Ahmedabad is directed to permit Yusuf Gulam Rasul Patel, partner of the plaintiff firm to make withdrawal of the amount of Rs.3600.00 and Rs.2880.00 which has been deposited in the aforesaid Civil Suit No. 2631 of 1977 by the defendant.

In view of the above orders made by this court on

the main matter, Civil Application No. 6494 of 2003 shall not survive. Same is, therefore, disposed of as not surviving. There shall be no order as to costs.

Dt. 19.9.2003. (H.K. Rathod,J.)

Vyas